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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,032	01/02/2004	Yulun Wang	157438-0020	3705
1622	7590	06/23/2006	EXAMINER	
IRELL & MANELLA LLP 840 NEWPORT CENTER DRIVE SUITE 400 NEWPORT BEACH, CA 92660			MARC, MCDIEUNEL	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/751,032	<b>Applicant(s)</b> WANG ET AL.	
	<b>Examiner</b> McDieunel Marc	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Claims 1-19 are presented for examination.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claim 1 and 11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 86 of copending Application No. 10/913,650, wherein the present application is broader than the copending application.

Serial No. 10/751,032	Serial No. 10/913,650
<p>Claim 1. A method for monitoring a patient, comprising: generating a robot movement input command at a remote station; transmitting the robot movement input command; receiving the robot movement input command at a robot that has a camera and a microphone; moving the robot to view and hear a patient; and, transmitting an image of the patient and a sound of the patient from the robot to the remote station.</p> <p>Claim 11. A method for monitoring a patient, comprising: generating a plurality of robot movement input commands at a remote station; transmitting the robot movement input commands; receiving the robot movement input commands at a robot that has a camera and a microphone; moving the robot from a first patient room to a second patient room of a</p>	<p>Claim 86, A method that allows a person to remotely visit a patient located in a healthcare facility, comprising:</p> <p>accessing a robot from a remote station; capturing video and audio of the patient by the robot; transmitting the video and audio of the patient to the remote station; displaying the video of the patient at the remote station; generating the audio of the patient at the remote station; capturing video and audio of the person at the remote station transmitting the video and audio of the person to the robot; displaying the video of the person on a monitor of the robot; generating the audio of the person at the robot; transmitting a command from the remote station to move the robot; and, moving the robot response a surface of the healthcare facility in response to the transmitted command.</p>

medical facility; and, transmitting an image of a patient and a sound of the patient from the robot to the remote station.	
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As noted on the table, the only differences between claims 1 and 11 of the present application claim 86 of the co-pending application is the minor deviation of language of the limitations including the preamble for instance, one recites “A method that allows a person to remotely visit a patient” and the other recites “A method for monitoring a patient, comprising: (and the limitation further comprising) generating a robot movement input command at a remote station”.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the robot type of the copending applicant with the patient monitoring method of Wang *et al.*, 032’ because this modification would have been a desirable features into the copending application in order to provide language variation, thereby improving the efficiency and the reliability of the patient monitoring method.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

It is well settled that the omission of an element, and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element or step whose function is not needed would be obvious to one of ordinary skill in the art.

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Dependent claims not specifically rejected are rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Ghodoussi et al. (US 20060047365A1).

As per claims 1 and 11, **Ghodoussi et al.** teaches a system and an associated method having a tele-medicine system that transmits an entire state of a subsystem which includes a method for monitoring a patient (see fig. 1) note that the monitoring has been shown in the surgeon console, comprising:

generating a robot movement input command at a remote station (see fig. 1); transmitting the robot movement input command (see figs. 1 and 7); receiving the robot movement input command at a robot that has a camera and a microphone (see figs. 1, 7 and sections [0007, 0029 and 0033]); moving the robot to view and hear a patient (see sections [0007, 0029 and 0033]); and, transmitting an image of the patient and a sound of the patient from the robot to the remote station (see sections [0007, 0029 and 0033] as noted above).

As per claim 2, **Ghoduoussi et al.** teaches a robot, wherein the robot moves across a floor of a medical facility.

As per claim 3 and 12, **Ghoduoussi et al.** teaches a robot, wherein the robot movement input command is generated by a doctor.

As per claims 4 and 13, **Ghoduoussi et al.** teaches a robot that further comprising transmitting a video image and a sound of a doctor at the remote station to the robot, the video image being displayed by a monitor of the robot, the sound being generated by a speaker of the robot.

As per claims 5 and 14, **Ghoduoussi et al.** teaches a robot, wherein the robot movement input command causes the robot camera to zoom relative to the patient.

As per claims 6 and 15, **Ghoduoussi et al.** teaches a robot that further comprising transmitting a video image of a medical chart from the robot to the remote station.

As per claims 7, 8, 16 and 17, **Ghoduoussi et al.** teaches a robot that further comprising generating and transmitting a question from the remote station to the robot; and wherein the question is generated by a speaker of the robot (see figs. 1, 7 and sections [0007, 0029 and 0033]) note that the voice command being considered as any type of voice including question.

As per claims 9 and 18, **Ghoduoussi et al.** teaches a robot, wherein the question is displayed by a monitor of the robot (see figs. 1 and 7).

As per claims 10 and 19, **Ghoduoussi et al.** teaches a robot, wherein the robot movement input command is transmitted through a broadband network (see fig. 7, element 148).

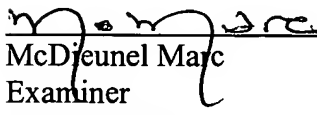
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (571) 272-6964.

The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
McDieunel Marc  
Examiner  
Art Unit 3661

Thursday, May 25, 2006  
MM/

  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 3600